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1986

MONTANA CODE ANNOTATED

Adopted by Chapter 1, Laws of 1979

DIANA S. DOWLING
Code Commissioner

Director Legal Services
Gregory J. Petesch

Staff Attorneys

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Brenda Desmond
Lee Heiman
Dave Cogley
Jim Lear
Valencia Lane
Mary Kelly McCue

Indexers

Nadine E. Wallace
Karen Caplis

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Connie Dixon
Patricia Sternberg

Data Entry Operator
Ann Sigouin

Distribution
Kathy Thompson

Systems and Programming
Leo La Salle, Typesetting

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NOTICE

(Code Sections Affected)

The following sections were affected by the 49th Legislature in Special Session:

2-9-211, 2-9-212
7-3-160
15-6-141, 15-6-145, 15-6-147
15-8-111
16-2-101
27-1-710
33-8-201 through 33-8-231
33-17-201
53-3-304, 53-3-305
80-13-101 through 80-13-213
80-14-101 through 80-14-205
85-1-603, 85-1-604, 85-1-617
90-5-101, 90-5-108

These sections follow. We suggest you mark the affected sections in the appropriate volumes of the Code to remind yourself to consult this pamphlet when researching such sections.

TITLE 2

GOVERNMENT STRUCTURE AND ADMINISTRATION

CHAPTER 9

LIABILITY EXPOSURE AND INSURANCE COVERAGE

Part 2

Comprehensive State Insurance Plan

2-9-211. Political subdivision insurance. (1) All political subdivisions of the state may procure insurance separately or jointly with other subdivisions and may elect to use a deductible or self-insurance plan, wholly or in part.

(2) A political subdivision that elects to establish a deductible plan may establish a deductible reserve separately or jointly with other subdivisions.

(3) A political subdivision that elects to establish a self-insurance plan may accumulate a self-insurance reserve fund, separately or jointly with other subdivisions, sufficient to provide self-insurance for all liability coverages that, in its discretion, the political subdivision considers should be self-insured. Payments into the reserve fund must be made from local legislative appropriations for that purpose or from the proceeds of bonds or notes authorized by subsection (5). Proceeds of the fund may be used only to pay claims under parts 1 through 3 of this chapter and for actual and necessary expenses required for the efficient administration of the fund.

(4) Money in reserve funds established under this section not needed to meet expected expenditures shall be invested and all proceeds of the investment credited to the fund.

(5) A political subdivision may issue and sell its bonds or notes for purposes of funding a self-insurance or deductible reserve fund and costs incident thereto in an amount not exceeding 3% of the taxable value of the political subdivision as of the date of issuance. The bonds or notes must be authorized by resolution of the governing body, are payable from the taxes authorized by 2-9-212, may be sold at public or private sale, do not constitute debt within the meaning of any statutory debt limitation, and may contain such other terms and provisions as the governing body determines. Two or more political subdivisions may agree pursuant to an interlocal agreement to exercise their respective borrowing powers hereunder jointly and may authorize a joint board created pursuant to such agreement to exercise such powers on their behalf.

History: En. Sec. 6, Ch. 380, L. 1973; amd. Sec. 3, Ch. 360, L. 1977; R.C.M. 1947, 82-4306; amd. Sec. 1, Ch. 3, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: At end of (2) after "reserve" and near beginning of (3) after "reserve fund" inserted "separately or jointly with other subdivisions"; at end of second sentence of (3) added "or from the proceeds of bonds or notes authorized by subsection (5)"; and inserted (5).

2-9-212. Political subdivision tax levy to pay premiums. Notwithstanding any provisions of law to the contrary, all political subdivisions may levy an annual property tax in the amount necessary to fund the premium for insurance, deductible reserve fund, and self-insurance reserve fund as herein authorized and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5), even though as a result of such levy the maximum levy as otherwise restricted by law is exceeded thereby, provided that the revenues derived therefrom may not be used for any other purpose.

History: En. Sec. 9, Ch. 380, L. 1973; amd. Sec. 4, Ch. 360, L. 1977; R.C.M. 1947, 82-4309; amd. Sec. 2, Ch. 3, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: Near middle after "herein authorized" inserted "and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5)".

TITLE 7

LOCAL GOVERNMENT

CHAPTER 3

ALTERNATIVE FORMS OF LOCAL GOVERNMENT

Part 1

General Provisions

7-3-160. Election of new officials. (1) Within 20 days after an election at which the new plan of government is approved by the electors, the governing body of the local government shall meet and order a special primary and general election for the purpose of electing the officials required by the new form of government. The elections for officials may be held in conjunction with any other election.

(2) The order shall specify:

(a) a date for the primary election to be held no later than the next regularly scheduled city or county primary election; and

(b) a date for the general election to be held no later than the next regularly scheduled city or county general election following the primary election date established under subsection (2)(a).

History: En. Sec. 25, Ch. 675, L. 1979; amd. Sec. 5, Ch. 250, L. 1985; amd. Sec. 1, Ch. 8, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: Substituted existing (2) for former (2) that read: "The order shall specify a date for the primary election not more than 120 days or less than 75 days after the election approving the new form and a date for the general election 75 days after the primary."

1985 Amendment: In (2) after "less than", substituted "75 days" for "20 days" and near end of sentence, substituted "75 days" for "60 days" (deleted 1986).

Cross-References

Times for holding general elections, 13-1-104.
Times for holding primary elections, 13-1-107.
Special elections — notice, 13-1-108.

TITLE 15

TAXATION

CHAPTER 6

PROPERTY SUBJECT TO TAXATION

Part 1

Classification

15-6-141. Class eleven property — description — taxable percentage. (1) Class eleven property includes:

(a) centrally assessed electric power companies' allocations, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;

(iii) property owned by organizations providing telephone communications to rural areas and classified in class seven;

(iv) railroad transportation property included in class fifteen; and

(v) airline transportation property included in class seventeen.

(2) Class eleven property is taxed at 12% of market value.

History: En. Sec. 13, Ch. 686, L. 1979; amd. Sec. 1, Ch. 367, L. 1981; amd. Sec. 2, Ch. 478, L. 1981; amd. Sec. 1, Ch. 722, L. 1985; amd. Sec. 4, Ch. 743, L. 1985; amd. Sec. 3, Ch. 7, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: In (1)(c)(iv) before "railroad" deleted "airline and"; and inserted (1)(c)(v).

1985 Amendments — Code Commissioner Correction — Composite Section: Chapter 722 in (2) substituted "Class eleven property is taxed at 12% of market value except as provided in 15-23-202 for railroad property" for former (2) that read: "(2) Class eleven property is taxed as follows:

(a) Property described in subsection (1)(a) and (b) is taxed at 12% of market value.

(b) Except as provided in 15-23-202, property described in subsection (1)(c) is taxed at 15% of market value". Amendment applicable to taxable years beginning after December 31, 1985 (sec. 3, Ch. 722, L. 1985).

Chapter 743 inserted (1)(c)(iv). Amendment effective January 1, 1986 (sec. 12, Ch. 743, L. 1985).

In (1)(c)(iv) the Code Commissioner changed "class thirteen" to "class fifteen". See compiler's comments to 15-6-145.

A composite section was prepared by the Code Commissioner for (2) since the transfer by Ch. 743 to class fifteen of airline and railroad property obviated the exception clause in (2). Without Ch. 743 the tax rate would, under Ch. 722, be 12% for all class eleven property. Hence, it would have been appropriate to include the exception language "except as provided in 15-23-202 for railroad property" at the end of (2). But with the creation of a new class for railroad property with pertinent tax rate provisions,

the exception language is obsolete and has been deleted.

1981 Amendments: Chapter 367 inserted "Except as provided in 15-23-202" at the beginning of (2)(b) (deleted in 1985).

Chapter 478 added the language relating to allocations of properties of public agencies to the end of (1)(a).

Composite of 1981 Amendment and Effective Date: Section 4, Ch. 478, L. 1981, provided: "This act is not effective until congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy." The Code Commissioner has composited this effective date with the substantive amendment made by sec. 2, Ch. 478, L. 1981, in subsection (1)(a). In the composite the Code Commissioner has substituted "if" for "This act is not effective until" to reflect the substance of the effective date within the code section.

15-6-145. Class fifteen property — description — taxable percentage. (1) Class fifteen property includes all railroad transportation property as described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986.

(2) For the taxable year beginning January 1, 1986, and for each taxable year thereafter, class fifteen property is taxed at the percentage rate "R", to be determined by the department as provided in subsection (3).

(3) R = A/B where:

(a) A is the total statewide taxable value of all commercial property, except class fifteen property, as commercial property is described in 15-1-101(1)(d), including class 1 and class 2 property; and

(b) B is the total statewide market value of all commercial property, except class fifteen property, as commercial property is described in 15-1-101(1)(d), including class 1 and class 2 property.

(4) (a) For the taxable year beginning January 1, 1986, and for every taxable year thereafter, the department shall conduct a sales assessment ratio study of all commercial and industrial real property and improvements. The study must be based on:

(i) assessments of such property as of January 1 of the year for which the study is being conducted; and

(ii) a statistically valid sample of sales using data from realty transfer certificates filed during the same taxable year or from the immediately preceding taxable year, but only if a sufficient number of certificates is unavailable from the current taxable year to provide a statistically valid sample.

(b) The department shall determine the value-weighted mean sales assessment ratio "M" for all such property and reduce the taxable value of property described in subsection (4) only, by multiplying the total statewide taxable value of property described in subsection (4) by "M" prior to calculating "A" in subsection (3).

(c) The adjustment referred to in subsection (4)(b) will be made beginning January 1, 1986, and in each subsequent tax year to equalize the railroad taxable values.

(5) For the purpose of complying with the Railroad Revitalization and Regulatory Reform Act of 1976, as it read on January 1, 1986, the rate "R" referred to in this section is the equalized average tax rate generally applicable to commercial and industrial property, except class fifteen property, as commercial property is defined in 15-1-101(1)(d).

History: En. Sec. 5, Ch. 743, L. 1985; amd. Sec. 1, Ch. 7, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: Deleted former (1)(b) that read: "all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on January 1, 1986"; in (3) inserted "except class fifteen prop-

erty" in two places; in (4)(c) deleted "and airline" before "taxable values"; and in (5) after "1976" deleted "and the Tax Equity and Fiscal Responsibility Act of 1982", substituted "it" for "they", and after "industrial property" inserted "except class fifteen property".

Effective Date — Code Commissioner Correction: This section is effective January 1, 1986 (sec. 12, Ch. 743, L. 1985).

In (1) and (2), the Code Commissioner changed "class thirteen" to "class fifteen" because Ch. 681, L. 1985, and Ch. 699, L. 1985, also enacted class thirteen property classifications.

15-6-147. Class seventeen property — description — taxable percentage. (1) Class seventeen property includes all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on January 1, 1986.

(2) For the taxable years 1986 through 1990 class seventeen property is taxed at 12%, and for each taxable year thereafter, class seventeen property is taxed at the lesser of 12% or the percentage rate for class fifteen property without adjustment.

(3) For the purpose of complying with the Tax Equity and Fiscal Responsibility Act of 1982, as it read on January 1, 1986, the rate "R" referred to in this section is the equalized average tax rate generally applicable to commercial and industrial property, except class seventeen property, as commercial property is defined in 15-1-101(1)(d).

History: En. Sec. 2, Ch. 7, Sp. L. March 1986.

CHAPTER 8

ASSESSMENT PROCEDURE

Part 1

General Provisions

15-8-111. Assessment — market value standard — exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds, including but not limited to aircraft and boats and all watercraft, is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in 15-6-134 through 15-6-140 and 15-6-145 through 15-6-147, except:

(a) the wholesale value for agricultural implements and machinery is the loan value as shown in the Official Guide, Tractor and Farm Equipment, published by the national farm and power equipment dealers association, St. Louis, Missouri; and

(b) for agricultural implements and machinery not listed in the official guide, the department shall prepare a supplemental manual where the values reflect the same depreciation as those found in the official guide.

(4) For purposes of taxation, assessed value is the same as appraised value.

(5) The taxable value for all property in classes four through eleven and fifteen through seventeen is the percentage of market value established for each class of property in 15-6-134 through 15-6-141 and 15-6-145 through 15-6-147.

(6) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-143, under class thirteen, are assessed at 100% of the combined appraised value of the standing timber and grazing productivity of the land when valued as timberland.

(7) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(8) The taxable value of all property in 15-6-131 and classes two, three, and thirteen is the percentage of assessed value established in 15-6-131(2), 15-6-132, 15-6-133, and 15-6-143 for each class of property. *(Subsections (3)(a) and (3)(b) applicable to tax years beginning after December 31, 1985—sec. 4, Ch. 463, L. 1985. Subsection (6)(d) and references in (8) to class thirteen and 15-6-143 terminate January 1, 1991—sec. 10, Ch. 681, L. 1985.)*

History: En. Sec. 5, p. 76, L. 1891; re-en. Sec. 3690, Pol. C. 1895; re-en. Sec. 2502, Rev. C. 1907; re-en. Sec. 2001, R.C.M. 1921; Cal. Pol. C. Sec. 3627; re-en. Sec. 2001, R.C.M. 1935; amd. Sec. 2, Ch. 512, L. 1973; amd. Sec. 1, Ch. 56, L. 1974; amd. Sec. 1, Ch. 209, L. 1975; amd. Sec. 1, Ch. 436, L. 1975; amd. Sec. 5, Ch. 498, L. 1977; amd. Sec. 21, Ch. 566, L. 1977; R.C.M. 1947, 84-401; amd. Sec. 11, Ch. 634, L. 1979; amd. Secs. 10, 13, Ch. 686, L. 1979; amd. Sec. 17, Ch. 693, L. 1979; amd. Sec. 66, Ch. 575, L. 1981; amd. Sec. 2, Ch. 578, L. 1981; amd. Sec. 3, Ch. 323, L. 1983; amd. Sec. 1, Ch. 463, L. 1985; amd. Sec. 6, Ch. 516, L. 1985; amd. Sec. 6, Ch. 681, L. 1985; amd. Sec. 7, Ch. 743, L. 1985; amd. Sec. 4, Ch. 7, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: In (3) and (5) substituted "and 15-6-145 through 15-6-147" for "15-6-145, and 15-6-146"; and in (5) substituted "and fifteen through seventeen" for "fifteen, and sixteen".

1985 Amendments: Chapter 463 in (2)(b) at beginning, inserted exception clause; and inserted (3)(a) and (3)(b).

Chapter 516 in (2)(b) near beginning, after "limited to", deleted "motorcycles". Amendment effective January 1, 1986 (sec. 50, Ch. 516, L. 1985).

Chapter 681 inserted (6)(d); and in (8), after "three" inserted "and thirteen" and after "15-6-133" inserted "and 15-6-143". Amendment effective January 1, 1986, and terminates January 1, 1991 (sec. 10, Ch. 681, L. 1985).

Chapter 743 in (3) inserted "15-6-145, and 15-6-146"; and in (5) inserted reference to classes fifteen and sixteen and inserted "15-6-145, and 15-6-146". Amendment effective January 1, 1986 (sec. 12, Ch. 743, L. 1985).

1983 Amendment: Deleted references to subsections of 15-6-131 in (3), (4) (now (5)), (5) (now (6)), (5)(a) (now (6)(a)), and (7) (now (8)).

1981 Amendments: Chapter 575 substituted "classes four through eleven" for "classes four through ten [class twenty, and class twenty-one]" in (4) (now (5)); deleted "[and 15-6-121]" at the end of (4) (now (5)); in (7) (now (8)), deleted "[and 15-6-120]" after "15-6-133".

Chapter 578 added subsection (2)(b).

TITLE 16

ALCOHOL AND TOBACCO

CHAPTER 2

STATE LIQUOR STORES

Part 1

Operation of Stores

16-2-101. Establishment and closure of state liquor stores — kinds and prices of liquor. (1) (a) The department shall establish and maintain one or more stores, to be known as "state liquor stores", as the department finds feasible for the sale of liquor in accordance with the provisions of this code and the rules made thereunder.

(b) The department shall enter into an agency agreement or employ the necessary help to operate said stores and shall designate the duties to be performed by the agent or employees.

(c) Once established, a store may not be closed by the department unless:

(i) the store is not operating at a profit; or

(ii) the closure is approved by the legislature at the next session of the legislature following the department's announcement of intent to close the store.

(2) The department may from time to time fix the prices at which the various classes, varieties, and brands of liquor may be sold, and prices shall be the same at all state stores. *(Subsection (1)(c) terminates July 1, 1986—sec. 5, Ch. 2, Sp. L. March 1986.)*

History: En. Sec. 10, Ch. 105, L. 1933; re-en. Sec. 2815.69, R.C.M. 1935; amd. Sec. 4, Ch. 30, L. 1937; amd. Sec. 1, Ch. 237, L. 1947; amd. Sec. 1, Ch. 162, L. 1949; amd. Sec. 1, Ch. 62, L. 1971; Sec. 4-114, R.C.M. 1947; amd. and redes. 4-2-101 by Sec. 7, Ch. 387, L. 1975; R.C.M. 1947, 4-2-101(part); amd. Sec. 1, Ch. 157, L. 1979; amd. Sec. 1, Ch. 2, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: Chapter 2, Sp. L. March 1986, inserted (1)(c). Chapter 2 was effective April 4, 1986, applied retroactively to occurrences after December 31, 1985, and terminated July 1, 1986.

Freeze on Commissions — Recovery Plan: Sections 2 and 4 of Ch. 2, Sp. L. March 1986, froze liquor store commissions until July 1, 1986, and provided for development of a Liquor Division recovery plan for presentment to the June 1986 Special Session. The sections were not codified because of their temporary nature.

TITLE 27

CIVIL LIABILITY, REMEDIES, AND LIMITATIONS

CHAPTER 1

AVAILABILITY OF REMEDIES — LIABILITY

Part 7

Liability

27-1-710. Civil liability for injuries involving alcohol consumption. (1) The purpose of this section is to set statutory criteria governing the liability of a person or entity that furnishes an alcoholic beverage for injury or damage arising from an event involving the person who consumed the beverage.

(2) A person or entity furnishing an alcoholic beverage may not be found liable for injury or damage arising from an event involving the consumer wholly or partially on the basis of a provision or a violation of a provision of Title 16.

(3) Furnishing a person with an alcoholic beverage is not a cause of, or grounds for finding the furnishing person or entity liable for, injury or damage wholly or partly arising from an event involving the person who consumed the beverage unless:

(a) the consumer was under the legal drinking age and the furnishing person knew that the consumer was underage or did not make a reasonable attempt to determine the consumer's age;

(b) the consumer was visibly intoxicated; or

(c) the furnishing person forced or coerced the consumption or told the consumer that the beverage contained no alcohol.

History: En. Sec. 1, Ch. 1, Sp. L. March 1986.

Cross-References

"Alcoholic beverage" defined, 16-1-106.

Unlawfully selling or giving alcoholic beverage to minor or person under the influence, 16-3-301, 16-6-304, 16-6-305, 45-5-622, 45-5-623.

TITLE 33

INSURANCE AND INSURANCE COMPANIES

CHAPTER 8

INSURANCE ASSISTANCE PLANS

Part 2 — Montana Insurance Assistance Plan

Section

33-8-201. Short title — definition.
33-8-202. Purpose.

33-8-203. Limit on term of operation — review of necessity — dissolution.
33-8-204. Immunity.
33-8-205. Rules — penalty.
33-8-206 through 33-8-210 reserved.
33-8-211. Plan structure — committees.
33-8-212. Apportionment agreements.
33-8-213. Exemption from agent appointment requirements.
33-8-214. Types of coverages — exemptions.
33-8-215 through 33-8-220 reserved.
33-8-221. Eligibility for assistance — application — rules.
33-8-222. Insurer membership — election not to participate.
33-8-223 and 33-8-224 reserved.
33-8-225. Advisory committee — duties and responsibilities.
33-8-226. Agents committee — duties and responsibilities.
33-8-227. Underwriting committee — duties and responsibilities.
33-8-228. Issuance of insurance — premiums.
33-8-229 and 33-8-230 reserved.
33-8-231. Joint underwriting association — rules.

Part 2

Montana Insurance Assistance Plan

33-8-201. *(Temporary)* **Short title — definition.** This part may be cited as the "Montana Insurance Assistance Plan". As used in this part, "plan" means the "Montana Insurance Assistance Plan". *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 1, Ch. 11, Sp. L. March 1986.

33-8-202. *(Temporary)* **Purpose.** The purpose of this part is to establish a temporary plan to assist insurance consumers in this state in obtaining needed commercial liability insurance when no quotation is available from regular sources of insurance. The plan is not constituted to act as an insurer capable of assuming insurance risks. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 2, Ch. 11, Sp. L. March 1986.

33-8-203. *(Temporary)* **Limit on term of operation — review of necessity — dissolution.** (1) The plan is established as a temporary market assistance plan to function only as long as its services are considered necessary to relieve perceived insurance market problems in this state.

(2) Six months after the plan becomes operational and on each 6-month anniversary thereafter, the advisory committee established under 33-8-211 shall review the necessity for continuation of the plan.

(3) If, after review, the advisory committee finds that a need exists for continued operation, it shall report that finding to the commissioner.

(4) If, after review, the advisory committee finds that there is no longer a need for continued operation of the plan, it may recommend to the commissioner that he dissolve the plan and discontinue its services. The advisory committee's recommendation is advisory only, and the commissioner is not required to follow the advisory committee's recommendation.

(5) The plan may be dissolved only on the written authorization of the commissioner. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 3, Ch. 11, Sp. L. March 1986.

33-8-204. *(Temporary)* **Immunity.** There is no liability on the part of and no cause of action of any nature against any employees, members of the advisory committee, members of the agents committee, members of the underwriting committee, or the commissioner or his representatives for any action taken by them in the performance of their powers and duties under the plan. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 15, Ch. 11, Sp. L. March 1986.

33-8-205. *(Temporary)* **Rules — penalty.** (1) The commissioner may adopt reasonable rules consistent with the plan for any of the following purposes:

(a) effectuation of the plan;

(b) establishment of procedures through which determination is to be made as to the eligibility of particular proposed coverages for placement in the plan; or

(c) establishment, procedures, and operations of the plan's agents and others designed to assist such agents to comply with the plan.

(2) Rules adopted pursuant to this section are subject to the procedures and carry the penalty provided by 33-1-313. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 16, Ch. 11, Sp. L. March 1986.

33-8-206 through 33-8-210 reserved.

33-8-211. *(Temporary)* **Plan structure — committees.** The plan consists of three committees appointed by the commissioner. The committees are:

(1) the advisory committee, which consists of one member from the insurance department, one member representing agents, and three members representing company underwriters;

(2) the agents committee, which consists of two members representing the independent insurance agents of Montana (IIAM), one member representing the professional insurance agents (PIA), one member representing the excess and surplus lines agents, and one member representing direct writer agents; and

(3) the underwriting committee, which consists of one member representing American insurance association (AIA), one member representing national association of independent insurers (NAII), one member representing alliance of American insurers (AAI), one member representing unaffiliated insurers, and one member representing excess and surplus lines underwriters. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 4, Ch. 11, Sp. L. March 1986.

33-8-212. *(Temporary)* **Apportionment agreements.** (1) Insurers participating in the plan shall agree to equitably apportion, according to the provisions of 33-8-228(6), insurance to be offered under the plan to eligible applicants who, although entitled to insurance from regular insurance

markets, have been unable to procure such insurance through ordinary methods after a good faith effort.

(2) Apportionment agreements under subsection (1) must be approved by the commissioner. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 5, Ch. 11, Sp. L. March 1986.

33-8-213. *(Temporary)* **Exemption from agent appointment requirements.** (1) For purposes of the plan:

(a) an insurer that has entered into an agreement as provided in 33-8-212 may accept applications for insurance coverage from any agent even though that agent has not been appointed by the insurer; and

(b) an agent may place business, as to any type of insurance for which he is licensed at the time, with any insurer participating in the plan even though the agent has not been appointed as an agent by that insurer.

(2) An insurer that issues insurance coverage upon an application submitted by an agent who has not been appointed by the insurer shall pay the agent a commission in conformity with the insurer's filed rates, rating plans, or forms for the kind of insurance effected.

(3) An agent who countersigns a policy, when a countersignature is required by 33-17-1111, shall be paid a countersignature commission as provided in 33-17-1113. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 6, Ch. 11, Sp. L. March 1986.

33-8-214. *(Temporary)* **Types of coverages — exemptions.** (1) The plan may assist in the individual placement of the following coverages:

(a) liability insurance coverage for political subdivisions, defined in 2-9-101(5), excluding pollution coverages;

(b) liability insurance coverage for day-care facilities, defined in 53-4-501(2)(b), which satisfy the requirements of 53-4-508 and 53-4-509, excluding damages from sexual abuse;

(c) liquor liability insurance; and

(d) other commercial lines liability coverages if the commissioner finds in writing, after consultation with the plan's advisory committee, that there are severe availability problems in the marketplace and that the plan is likely to provide assistance with a reasonable probability of success.

(2) Coverages that could be written through the Montana automobile assigned risk plan, Montana workers' compensation insurance plan, or Montana medical liability joint underwriting association, if activated, may not be issued under the plan. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 7, Ch. 11, Sp. L. March 1986.

33-8-215 through 33-8-220 reserved.

33-8-221. *(Temporary)* **Eligibility for assistance — application — rules.** (1) Any person constituting or having an insurable risk that is resident, located, or to be performed in this state is eligible for assistance in procuring coverage under the plan on submission of:

(a) a fee set by a rule adopted by the commissioner;

(b) a properly executed application form; and

(c) documentation of the unavailability problem by an insurance agent licensed in this state.

(2) The application fees must be paid in advance as set forth in rules adopted by the commissioner.

(3) All properly executed applications must be sent to the commissioner.

(4) Applications and supplemental forms, if appropriate, must be completed in their entirety. Incomplete applications may be returned. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 8, Ch. 11, Sp. L. March 1986.

33-8-222. *(Temporary)* **Insurer membership — election not to participate.** (1) The commissioner shall develop a listing of participating insurers as provided in subsection (2).

(2) The commissioner shall mail to each admitted property and casualty insurer and eligible surplus lines insurer a bulletin outlining the conditions of the plan and advising that each is considered to be a voluntary participant. An insurer may request permission not to participate by providing to the commissioner reasons why its participation should be waived. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 9, Ch. 11, Sp. L. March 1986.

33-8-223 and 33-8-224 reserved.

33-8-225. *(Temporary)* **Advisory committee — duties and responsibilities.** (1) The advisory committee, assisted by the insurance department staff, is the principal operations committee and shall receive the initial application from applicants for insurance assistance who have encountered an availability-related insurance problem. An initial application may not be accepted from applicants who currently have insurance coverage or have not yet been rejected from markets to which they have applied.

(2) Information of the initial contact must be maintained on a standard form that contains the following information:

(a) name, address, telephone number, and other applicant information;

(b) kind of coverage and limits needed;

(c) name, address, and telephone number of the current or most recent insurance agent for the applicant;

(d) name and address of current or most recent insurance company, information about and identity of the underwriting office and persons involved, if known, and reasons for cancellation or nonrenewal;

(e) names of other insurers contacted for coverage;

(f) summary of advisory committee actions; and

(g) other information as considered necessary to document the applicant's availability problem.

(3) The advisory committee is authorized to give direction to the plan and to the producers and underwriting committees. The committee shall meet as needed and review the activities of the agents and underwriting committees and all other operations of the plan.

(4) The advisory committee shall review and authorize all letters stating that the plan is unable to be of assistance. The advisory committee may override all decisions of the agents and underwriting committees and may resubmit to the plan an application that has been denied by either committee. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 10, Ch. 11, Sp. L. March 1986.

33-8-226. *(Temporary)* **Agents committee — duties and responsibilities.** (1) The agents committee, assisted by the insurance department staff, shall process properly executed applications accompanied by appropriate underwriting information.

(2) Each application must be reviewed to determine the availability problem. Depending on the nature of the problem, the committee may:

(a) resubmit the application to the present or most recent insurer for reconsideration;

(b) check other sources of insurance of the submitting agent;

(c) check all other known sources of insurance;

(d) check the excess and surplus lines markets; or

(e) negotiate extensions of coverage with the prior insurer to allow time for additional exploration of markets or accumulation of essential underwriting data.

(3) If the actions permitted in subsection (2) fail, the chairman shall refer the application with appropriate comments to the underwriting committee. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 11, Ch. 11, Sp. L. March 1986.

33-8-227. *(Temporary)* **Underwriting committee — duties and responsibilities.** (1) The underwriting committee may provide technical assistance on those lines of business for which member insurers have agreed to participate.

(2) The underwriting committee may consider and act only on applications referred to it by the agents committee.

(3) The underwriting committee shall establish a rotation system that permits a participating insurer to offer insurance coverage that it is qualified to write in this state to a qualified, eligible applicant, pursuant to 33-8-228.

(4) If the underwriting committee finds that it cannot assist an applicant, the chairman shall draft a letter to the insurance commissioner with an explanation. The letter shall be transmitted to the advisory committee for review. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 12, Ch. 11, Sp. L. March 1986.

33-8-228. *(Temporary)* **Issuance of insurance — premiums.** (1) A participating insurer may offer to write insurance under the plan on the same basis as it normally provides insurance in this state using its filed rates, rules, and forms.

(2) Each participating insurer may individually evaluate the risk represented by an applicant and develop a premium for a risk in accordance with its filed rating plans.

(3) An applicant shall pay in advance any premium for risks accepted under the plan.

(4) On approval of the advisory committee, a participating insurer may develop "A" rates for risks that do not fall within the rules or rates filed by the insurer.

(5) Within 10 working days of receiving an application, a participating insurer shall indicate its willingness to offer or refusal to offer insurance on the application to the chairman of the underwriting committee. A reasonable extension may be granted by the chairman of the underwriting committee.

(6) A participating insurer is expected to quote on at least one out of every five applications received from the underwriting committee. The insurer shall notify the applicant's insurance agent of any quotations and of the administrative procedure to be followed if the applicant accepts coverage from the insurer at the price quoted.

(7) If insurance coverage obtained through the plan is canceled for nonpayment of premium, the applicant may not reapply to the plan for the same coverage for the same risk. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 13, Ch. 11, Sp. L. March 1986.

33-8-229 and 33-8-230 reserved.

33-8-231. *(Temporary)* **Joint underwriting association — rules.** If, after a public hearing, the commissioner determines that a voluntary plan would, in his judgment, fail for any reason to provide essential insurance coverage, he may, by rule, establish a nonprofit unincorporated legal entity known as a joint underwriting association. Each insurer authorized to write and engaged in writing within this state, on a direct premium basis, the kind of insurance covered by the association shall remain a member of the association as a condition of its authority to continue to transact that kind of insurance in this state. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

History: En. Sec. 14, Ch. 11, Sp. L. March 1986.

Compiler's Comments

Report to Legislature: Section 18, Ch. 11, Sp. L. March 1986, provided that the Insurance Commissioner shall report to the 50th Legislature on the effectiveness of the plan in providing insurance coverage and on the necessity to continue the authority granted in this section.

CHAPTER 17

AGENTS, SOLICITORS, ADJUSTERS, CONSULTANTS, AND ADMINISTRATORS

Part 2

Licensing and Appointment of Agents and Solicitors

33-17-201. *(Temporary)* **License required of agents, managing general agents, and solicitors — forms.** (1) No person shall in this state act as or hold himself out to be an agent or solicitor as to subjects of insurance

located, resident, or to be performed in this state unless then licensed as such agent or solicitor under this chapter.

(2) No person may act or hold himself out in this state to be a managing general agent unless licensed as an insurance agent under this chapter and appointed by the insurers represented.

(3) No agent or solicitor shall solicit or take application for, procure, or place for others any kind of insurance as to which he is not then licensed.

(4) No agent shall place any business, other than coverage of his own risks, with any insurer as to which he does not then hold an appointment or license as agent under this chapter, except as provided in 33-17-1104 as to life or disability insurance agents and in 33-8-213.

(5) The commissioner shall prescribe and furnish forms required in connection with application for, issuance, continuation, or termination of licenses and appointments.

(6) Unless licensed as a life insurance agent as required by this section, no person shall in this state solicit life insurance or annuities or procure applications therefor or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling or advising or giving opinions, other than as a licensed attorney at law, relative to such insurance or annuities for fee, commission, or other compensation, other than as a salaried bona fide full-time employee so counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of such employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of such employees. *(Terminates July 1, 1989—sec. 22, Ch. 11, Sp. L. March 1986.)*

33-17-201. *(Effective July 1, 1989)* **License required of agents, managing general agents, and solicitors — forms.** (1) No person shall in this state act as or hold himself out to be an agent or solicitor as to subjects of insurance located, resident, or to be performed in this state unless then licensed as such agent or solicitor under this chapter.

(2) No person may act or hold himself out in this state to be a managing general agent unless licensed as an insurance agent under this chapter and appointed by the insurers represented.

(3) No agent or solicitor shall solicit or take application for, procure, or place for others any kind of insurance as to which he is not then licensed.

(4) No agent shall place any business, other than coverage of his own risks, with any insurer as to which he does not then hold an appointment or license as agent under this chapter, except as provided in 33-17-1104 as to life or disability insurance agents.

(5) The commissioner shall prescribe and furnish forms required in connection with application for, issuance, continuation, or termination of licenses and appointments.

(6) Unless licensed as a life insurance agent as required by this section, no person shall in this state solicit life insurance or annuities or procure applications therefor or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling

or advising or giving opinions, other than as a licensed attorney at law, relative to such insurance or annuities for fee, commission, or other compensation, other than as a salaried bona fide full-time employee so counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of such employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of such employees.

History: En. Secs. 147, 151, Ch. 286, L. 1959; R.C.M. 1947, 40-3303(part), 40-3307; amd. Sec. 7, Ch. 518, L. 1983; amd. Sec. 17, Ch. 11, Sp. L. March 1986.

Compiler's Comments

1983 Amendment: Inserted (2).

1986 Amendment: In (4) at end inserted reference to 33-8-208. Amendment terminates July 1, 1989 (sec. 22, Ch. 11, Sp. L. March 1986).

TITLE 53

SOCIAL SERVICES AND INSTITUTIONS

CHAPTER 3

GENERAL RELIEF

Part 3

Conditions and Form of Assistance Liability for Assistance

53-3-304. Power to require recipient to participate in job search, training, and work programs. (1) The department shall cooperate with the department of labor and industry and other designated agencies to initiate, promote, and develop job search, training, and work programs that will contribute to the employability of persons receiving general relief under the provisions of this chapter. These programs must be designed to preserve and improve the work habits and job-finding skills of recipients for whom jobs are not otherwise immediately available.

(2) For each county with state-assumed welfare services, the department shall contract with the department of labor and industry or other designated agencies to institute a job search, training, and work program that provides able-bodied general relief recipients with the necessary job-finding skills to seek unsubsidized employment independently.

(3) In a county with state-assumed welfare services, an able-bodied recipient of general relief shall enroll in a structured job search and training program at an employment office or other site designated by the department. The program must include but is not limited to the following elements:

(a) assessment and testing;

(b) an employability plan;

(c) remedial education or job skills training, if it is called for in the employability plan and if it provides for immediate referral to an appropriate Job Training Partnership Act program;

(d) a job readiness and job search program that must include but is not limited to:

(i) self-assessment and occupational testing;

(ii) instruction in completing applications, writing resumes, and preparing for interviews;

(iii) identification of and contact with potential employers; and

(iv) participation in simulated job interviews;

(e) a supervised effort to find employment; and

(f) efforts to address barriers to employment.

(4) (a) In addition to the training required in subsection (3), if a public agency or a private nonprofit agency has work available which a recipient of general relief is capable of performing or the department of social and rehabilitation services is required to operate a work program under the provisions of 53-2-822, then the county department of public welfare or the department of social and rehabilitation services may require a recipient to perform work at the minimum wage or may pay a recipient at the prevailing rate of wages paid in that county by that agency for similar work, to be paid from the county poor fund or state funds, in place of granting him general relief.

(b) No currently employed worker may be displaced by any recipient (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(c) No recipient may be employed when any other person is on layoff from the same or any substantially equivalent job or when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a recipient whose wages are subsidized under this section.

(5) The county department of public welfare or the department of social and rehabilitation services, as the case may be, shall provide coverage under the Workers' Compensation Act for those recipients of general relief working under the provisions hereof and may enter into such agreements with the division of workers' compensation of the department of labor and industry as may be necessary to carry out the provisions of this section.

(6) A recipient who has completed the assessment and testing portions of the program and has developed an employability plan shall participate in the job readiness and job search program provided for in subsection (3)(d) for at least 80 hours in any 5-week period and shall spend at least 8 hours a week in a supervised effort to find employment.

(7) A recipient who has completed the job search program provided for in subsection (3) shall:

(a) continue to spend at least 8 hours a week in a supervised effort to find employment; and

(b) for the duration of his eligibility for general relief, spend 32 hours a week, as called for in the employability plan, in:

(i) remedial education;

(ii) counseling;

(iii) job skills training;

(iv) work for a public agency or a private nonprofit agency, as required in subsection (4); or

(v) job-seeking or other related activities.

(8) Nothing in this chapter requires a recipient to continue the activities required by subsection (7) for longer than 6 months.

(9) Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the area where it is proposed to assign the recipient to work or training, an opportunity must be provided for that organization to submit comments with respect to such proposal.

(10) No work program may impair existing contracts for services or collective bargaining agreements, and no work program that would be inconsistent with the terms of a collective bargaining agreement may be undertaken without the written concurrence of the labor organization and employer concerned.

History: En. Sec. 5, Part 2, Ch. 82, L. 1937; amd. Sec. 13, Ch. 129, L. 1939; amd. Sec. 1, Ch. 180, L. 1963; amd. Sec. 28, Ch. 121, L. 1974; amd. Sec. 1, Ch. 208, L. 1974; amd. Sec. 29, Ch. 37, L. 1977; R.C.M. 1947, 71-307(part); amd. Sec. 17, Ch. 651, L. 1983; amd. Sec. 1, Ch. 10, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: Inserted (1) through (3), (4)(b), (4)(c), and (6) through (10); in (4)(a) at beginning, substituted "In addition to the training required in subsection (3), if a public agency or a private nonprofit agency" for "If the county"; and near end of (4)(a) substituted "wages paid in that county by that agency" for "wages paid by that county".

1983 Amendment: In (1) (now (4)(a)), near beginning after "performing" inserted clause relating to departmental operation of a work program, after "public welfare" inserted "or the department of social and rehabilitation services", after "work at" inserted "the minimum wage or may pay a recipient at", and after "county poor fund" inserted "or state funds"; and in (2) (now (5)) near beginning after "public welfare" inserted "or the department of social and rehabilitation services, as the case may be,".

53-3-305. Effect of refusal to enroll in job search, training, and work programs. Any recipient of general relief who is subject to the provisions of 53-3-303 and 53-3-304 and who without cause refuses to participate in the job search and training program or to perform work assigned to him as therein provided shall lose one-fourth of his next monthly benefit amount for each refusal.

History: En. Sec. 5, Part 2, Ch. 82, L. 1937; amd. Sec. 13, Ch. 129, L. 1939; amd. Sec. 1, Ch. 180, L. 1963; amd. Sec. 28, Ch. 121, L. 1974; amd. Sec. 1, Ch. 208, L. 1974; amd. Sec. 29, Ch. 37, L. 1977; R.C.M. 1947, 71-307(3); amd. Sec. 2, Ch. 10, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: After "refuses" inserted "to participate in the job search and training program or" and near end substituted "lose one-fourth of his next monthly benefit amount" for "lose his eligibility for general relief for 1 week".

TITLE 80

AGRICULTURE

CHAPTER 13

AGRICULTURAL ASSISTANCE AND COUNSELING PROGRAM

Part 1 — General Provisions

Section
80-13-101. Purpose.
80-13-102. Definitions.

80-13-103. Agricultural assistance and counseling program.
80-13-104. Powers and duties of department.
80-13-105 through 80-13-110 reserved.
80-13-111. Gifts and grants to support program.

Part 2 — Mediation of Farmer's Indebtedness

80-13-201. Voluntary mediation — filing procedure — dismissal of requests.
80-13-202. Duties and requirements of mediators.
80-13-203. Mediation agreement.
80-13-204. Unsuccessful mediation.
80-13-205 through 80-13-210 reserved.
80-13-211. Confidentiality of records.
80-13-212. Closed meetings.
80-13-213. Waiver of right to bring civil action against state.

Part 1
General Provisions

80-13-101. *(Temporary)* **Purpose.** It is the declared purpose of this chapter to establish an emergency program to directly assist individual farmers who are financially distressed by providing them assistance and counseling to manage farm credit problems, to avoid or mitigate forced liquidation or farm foreclosure, and to cope with the financial stress resulting from the adverse conditions of agriculture in this state. It is a goal of this program to maximize program effectiveness by utilizing peer counselors and by cooperating with the private sector. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: En. Sec. 1, Ch. 9, Sp. L. March 1986.

80-13-102. *(Temporary)* **Definitions.** As used in this chapter, unless the context indicates otherwise, the following definitions apply:

(1) "Agricultural production" means the production of livestock, poultry, field crops, fruit, or other animal and vegetable matter for food or fiber.

(2) "Agricultural property" means:

(a) real property that is principally used for agricultural production; and

(b) personal property that is part of an agricultural production operation or used as security to finance such an operation, including equipment, crops, livestock, and the proceeds of any security.

(3) "Department" means the department of agriculture provided for in 2-15-3001.

(4) "Farmer" means a person who owns or operates a farm or ranch primarily for the purpose of agricultural production.

(5) "Mediator" means a person authorized under 80-13-202 to serve as a negotiator between a farmer and a creditor.

(6) "Peer counselor" means a person who is or has been involved in production agriculture and who has been trained through the department and others in financial counseling and mediation or negotiation techniques and who works to aid financially distressed farmers through this program.

(7) "Program" means the agricultural assistance and counseling program provided for in 80-13-103.

(8) "Secured ceditor" means:

(a) the holder of a mortgage on agricultural property;

(b) a vendor of a contract for deed of agricultural property;

(c) a person with a statutory lien or a perfected security interest in agricultural property; or

(d) a judgment creditor with a judgment against a debtor engaged in agricultural production.

(9) "Unsecured creditor" means a person who extends credit without a perfected security interest to a farmer for the purchase of goods or services used in agricultural production. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: En. Sec. 2, Ch. 9, Sp. L. March 1986.

80-13-103. *(Temporary)* **Agricultural assistance and counseling program.** (1) The department shall establish an agricultural assistance and counseling program to aid financially distressed farmers in this state.

(2) Under the program, the department shall make available to farmers the following types of assistance:

(a) financial consulting;

(b) farm management consulting;

(c) legal information services;

(d) voluntary debt mediation as provided for in 80-13-201;

(e) mental health assistance;

(f) support counseling; and

(g) referral services. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: En. Sec. 3, Ch. 9, Sp. L. March 1986.

80-13-104. *(Temporary)* **Powers and duties of department.** (1) For the purpose of administering the program, the department shall:

(a) utilize the services of:

(i) a network of trained peer counselors who can directly assist financially distressed farmers;

(ii) the cooperative extension service and the college of agriculture at Montana state university;

(iii) state or federal agencies;

(iv) legal service corporations, the university of Montana law school, or private law firms;

(v) community service organizations;

(vi) private business;

(vii) professional associations;

(viii) regional mental health corporations;

(ix) volunteer organizations; and

(x) any other person or entity;

(b) contract for services with qualified personnel, including peer counselors, farm management specialists, accountants, attorneys, and mental health professionals, to provide the assistance required under 80-13-103;

(c) hire a coordinator and necessary staff to implement and manage the program;

(d) provide training for interested and qualified persons, including peer counselors, to assist farmers needing help with farm financial management problems;

(e) establish a toll-free telephone line to receive requests for assistance, counseling, and referral of services; and

(f) compile a directory of services available through the program.

(2) The department may:

(a) establish an advisory board to assist the department in determining policy and in developing plans for administration of the program; and

(b) adopt rules necessary for the administration of the program. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: En. Sec. 4, Ch. 9, Sp. L. March 1986.

80-13-105 through 80-13-110 reserved.

80-13-111. *(Temporary)* **Gifts and grants to support program.** The department may accept monetary or in-kind contributions, gifts, and grants provided to support the program. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: En. Sec. 5, Ch. 9, Sp. L. March 1986.

Part 2

Mediation of Farmer's Indebtedness

80-13-201. *(Temporary)* **Voluntary mediation — filing procedure — dismissal of requests.** (1) A farmer who is in danger of foreclosure on agricultural property or a secured creditor may request mediation of the farmer's indebtedness by filing a request with the department on a form prescribed by the department.

(2) In filing or responding to a mediation request, the farmer shall provide:

(a) the name and address of each secured and unsecured creditor;

(b) the amount owed to each creditor;

(c) the amount of the periodic installment payments due each creditor;

(d) any financial statements and pro forma cash flow statements, including those related to any nonfarm activities; and

(e) any additional information the department may require.

(3) In filing or responding to a mediation request, a secured creditor shall provide:

(a) information pertaining to the basis of the credit determination;

(b) financial statements and pro forma cash flow statements on the respective farmer;

(c) statements regarding the status of the farmer's loan performance;

(d) the name and title of the representative of the creditor authorized to enter into a binding mediation agreement; and

(e) any additional information the department may require.

(4) A farmer or secured creditor who agrees to participate in mediation shall authorize the release to the department of any information held by a creditor.

(5) Upon receipt of a properly completed mediation request form, the department shall direct a mediator to meet with the farmer and secured creditor to assist in mediation. An unsecured creditor may participate in mediation between a farmer and secured creditor if each party agrees or if the mediator determines that an unsecured creditor is a necessary party to the mediation.

(6) Subject to the provisions of subsection (7), the department shall immediately terminate an attempt at mediation and dismiss the mediation request if at any time it finds that:

(a) a secured creditor does not agree to participate in mediation requested by the farmer; or

(b) the farmer does not agree to participate in any mediation requested by a secured creditor.

(7) If the mediation request involves more than one secured creditor and any one creditor does not agree to participate in mediation, the department shall dismiss the mediation request only insofar as it relates to that creditor. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: En. Sec. 6, Ch. 9, Sp. L. March 1986.

80-13-202. *(Temporary)* **Duties and requirements of mediators.** (1) A mediator must be qualified to provide the services required under this chapter. A mediator must be an impartial person knowledgeable in agricultural and financial matters.

(2) In carrying out his properly authorized duties, the mediator shall:

(a) listen to the farmer and any creditor desiring to be heard;

(b) attempt to negotiate an agreement that:

(i) extends the term of credit;

(ii) reduces the dollar amount of payments under credit; or

(iii) permits the farmer to continue in agricultural production and provides reasonable security to the creditor; and

(c) advise, counsel, and assist the farmer and creditor in attempting to arrive at a satisfactory agreement.

(3) A mediator may attempt to:

(a) arrange mutually agreed upon forebearance from litigation, rescheduled or renegotiated debt, voluntary sale, or other liquidation of any agricultural property; and

(b) obtain assistance from any public or private agency. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: En. Sec. 7, Ch. 9, Sp. L. March 1986.

80-13-203. *(Temporary)* **Mediation agreement.** (1) If an agreement is reached between the farmer and a creditor, the mediator shall draft a written mediation agreement to be signed by the farmer and the creditor.

(2) A farmer and any creditor who are parties to a mediation agreement:

(a) are bound by the terms of the agreement;

(b) may enforce the mediation agreement as a legal contract; and

(c) may use the mediation agreement as a defense against an action contrary to the mediation agreement. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: En. Sec. 8, Ch. 9, Sp. L. March 1986.

80-13-204. *(Temporary)* **Unsuccessful mediation.** If a mediation agreement cannot be reached, the mediator shall recommend to the department that the mediation be concluded and the mediation request be dismissed. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: **En. Sec. 9, Ch. 9, Sp. L. March 1986.**

80-13-205 through 80-13-210 reserved.

80-13-211. *(Temporary)* **Confidentiality of records.** (1) All materials, data, and information received by the department with respect to any request filed under 80-13-201 are confidential and are not subject to examination or disclosure as public information.

(2) No official, employee, or agent of the department may knowingly disclose any materials, data, or information concerning a mediation request without the consent of the farmer and the creditor. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: **En. Sec. 10, Ch. 9, Sp. L. March 1986.**

80-13-212. *(Temporary)* **Closed meetings.** Meetings between a farmer and any creditor conducted by a mediator are not open to public participation and are not subject to the provisions of the open meeting law contained in 2-3-203. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: **En. Sec. 11, Ch. 9, Sp. L. March 1986.**

80-13-213. *(Temporary)* **Waiver of right to bring civil action against state.** All parties who voluntarily enter into the mediation process as described in this chapter shall waive their right to take civil action against the state of Montana and its designated mediator and thereby release the state and its designated mediator from civil liability for actions occurring within the scope of the mediation services. *(Terminates July 1, 1987—sec. 15, Ch. 9, Sp. L. March 1986.)*

History: **En. Sec. 12, Ch. 9, Sp. L. March 1986.**

CHAPTER 14

PRODUCTION LOAN LINKED DEPOSIT PROGRAM

Part 1 — General Provisions

Section
80-14-101. Findings and purpose.
80-14-102. Definitions.
80-14-103. Amount authorized for linked deposits.

Part 2 — Loans

80-14-201. Application for funds — criteria for loans.
80-14-202. Approval and acceptance of deposit — deposit agreement.
80-14-203. Linked deposit loans.
80-14-204. Liability for loans and deposit funds.
80-14-205. Penalty.

Part 1
General Provisions

80-14-101. *(Temporary)* **Findings and purpose.** The legislature finds that due to economic, climatic, and other factors beyond their control a significant number of Montana agricultural producers are presently unable to obtain the financial credit necessary to continue operating and are in imminent peril of losing their operations and their livelihood. Because of the dependence of the entire Montana economy on the well-being of agriculture, the legislature further finds that the current crisis in agriculture poses a serious threat to all Montana's citizens. It is the purpose of this chapter to permit deposit of public investment funds in local financial institutions at less than current market rates to in turn enable those institutions to make credit available to certain agricultural borrowers at favorable rates. Notwithstanding other statutory fiduciary requirements, a deposit under this chapter is hereby authorized and declared to be for a valid public purpose. *(Terminates March 15, 1987—sec. 9, Ch. 5, Sp. L. March 1986.)*

History: En. Sec. 1, Ch. 5, Sp. L. March 1986.

80-14-102. *(Temporary)* **Definitions.** As used in this chapter, the following definitions apply:

(1) "Board" means the board of investments established under 2-15-1005.

(2) "Eligible agricultural operation" means any person, corporation, partnership, or other entity which is engaged in the production of agricultural, livestock, poultry, dairy, or fruit or other horticultural products and which:

(a) derives at least 70% of its gross income from such production; and

(b) has total financial liabilities exceeding 30% of its total assets.

(3) "Eligible lending institution" means a financial institution that:

(a) is eligible to make commercial loans;

(b) is a public depository of state funds; and

(c) agrees to participate in the linked deposit program established by this chapter.

(4) "Linked deposit" means an agreement between the board and an eligible financial institution whereby a certificate of deposit for a term not exceeding 6 months is placed by the board with an eligible lending institution at a rate 1% below the current market rate for such a deposit, as determined by the board, provided the institution agrees to lend the value of such deposit, pursuant to the deposit agreement provided in 80-14-202, to eligible agricultural operations at an interest rate not exceeding 2 percentage points greater than the rate payable on the certificate of deposit. *(Terminates March 15, 1987—sec. 9, Ch. 5, Sp. L. March 1986.)*

History: En. Sec. 2, Ch. 5, Sp. L. March 1986.

80-14-103. *(Temporary)* **Amount authorized for linked deposits.** The board may place public funds under its control not exceeding $50,000,000 in linked deposits in eligible lending institutions qualified under this chapter to receive such deposits. *(Terminates March 15, 1987—sec. 9, Ch. 5, Sp. L. March 1986.)*

History: En. Sec. 3, Ch. 5, Sp. L. March 1986.

Compiler's Comments

Authority Terminates: Section 9(2), Ch. 5, Sp. L. March 1986, read: "The authority of the board to make linked deposits under this act terminates August 31, 1986."

Part 2
Loans

80-14-201. *(Temporary)* **Application for funds — criteria for loans.** (1) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for linked deposit loans from eligible agricultural operations. The institution shall apply all usual lending standards to determine credit worthiness of each applicant. No linked deposit loan made to any eligible agricultural operation may exceed $50,000, and no service of separate loans funded under this chapter may be made which in the aggregate exceeds such limit to any single eligible agricultural operation.

(2) An eligible agricultural operation must certify on its loan application that the reduced rate loan will be used exclusively for its necessary production expenses or for the short-term acquisition of livestock for other than breeding purposes.

(3) The eligible lending institution must forward to the board a linked deposit loan package on a form prescribed by the board which discloses the recipient, amount, rate of interest, and term of each loan proposed to be made with the linked deposit, and ratio of total financial liabilities to total assets of each borrower. The institution shall ensure and certify that each loan applicant meets the eligibility requirements of this chapter. *(Terminates March 15, 1987—sec. 9, Ch. 5, Sp. L. March 1986.)*

History: En. Sec. 4, Ch. 5, Sp. L. March 1986.

80-14-202. *(Temporary)* **Approval and acceptance of deposit — deposit agreement.** (1) The board may accept or reject the linked deposit loan package or any portion thereof.

(2) Upon acceptance of the linked deposit loan package or any portion thereof, the board may place certificates of deposit for a term not to exceed 6 months with the eligible lending institution at a rate 1% below the current market rate for such certificates, as determined by the board.

(3) The eligible lending institution must enter into a deposit agreement with the board, which shall specify the recipients, amount, rate of interest, and length of time of loans which the institution will make upon receiving a linked deposit. The agreement must also specify that interest on the linked deposit must be paid at the times determined by the board.

(4) The period of time for which a certificate of deposit is placed with an eligible lending institution may be neither longer nor shorter than the period of time for which the linked deposit is used to provide loans at reduced interest rates. *(Terminates March 15, 1987—sec. 9, Ch. 5, Sp. L. March 1986.)*

History: En. Sec. 5, Ch. 5, Sp. L. March 1986.

Compiler's Comments

Authority Terminates: Section 9(2), Ch. 5, Sp. L. March 1986, read: "The authority of the board to make linked deposits under this act terminates August 31, 1986."

80-14-203. *(Temporary)* **Linked deposit loans.** (1) Upon placement of a linked deposit with an eligible lending institution, the institution must lend such funds to each approved eligible agricultural operation listed in the linked deposit loan package required by 80-14-201 and in accordance with the

deposit agreement required by 80-14-202. Each loan must be at a fixed rate of interest not exceeding 2 percentage points greater than the rate payable on the linked deposit.

(2) All records and documents pertaining to each loan shall be segregated by the lending institution for ease of identification and examination.

(3) Each eligible agricultural operation receiving a loan under this chapter shall promptly certify receipt of the loan to the board in the form and manner prescribed by the board.

(4) Any report of noncompliance by an eligible lending institution chartered under the laws of this state must be referred to the financial division of the department of commerce for appropriate action. Any report of noncompliance by an eligible lending institution chartered under federal law must be referred to the office of United States comptroller of the currency or other appropriate federal regulatory agency for appropriate action. *(Terminates March 15, 1987—sec. 9, Ch. 5, Sp. L. March 1986.)*

History: En. Sec. 6, Ch. 5, Sp. L. March 1986.

80-14-204. *(Temporary)* **Liability for loans and deposit funds.** Neither the state nor the board is liable to any eligible lending institution in any manner for payment of the principal or interest on any loan to an eligible agricultural operation. Any delay in payments or default on the part of an eligible agricultural operation does not in any manner affect the deposit agreement between the eligible lending institution and the board. *(Terminates March 15, 1987—sec. 9, Ch. 5, Sp. L. March 1986.)*

History: En. Sec. 7, Ch. 5, Sp. L. March 1986.

80-14-205. *(Temporary)* **Penalty.** (1) Any person who knowingly makes a false statement concerning any loan application or linked deposit loan package is guilty of a misdemeanor.

(2) Any lending officer of an eligible lending institution who knowingly violates any provision of this chapter is guilty of a misdemeanor. *(Terminates March 15, 1987—sec. 9, Ch. 5, Sp. L. March 1986.)*

History: En. Sec. 8, Ch. 5, Sp. L. March 1986.

TITLE 85

WATER USE

CHAPTER 1

WATER RESOURCES

Part 6

Water Development Program

85-1-603. Water development debt service fund created — coal severance tax allocated. (1) There is created a water development debt service fund within the debt service fund type established in 17-2-102.

(2) The state pledges and allocates and directs to be credited to the water development debt service fund, as received:

(a) 1 ¼% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of such tax to the trust fund established under Article IX, section 5, of The Constitution of the State of Montana;

(b) any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under 85-1-617;

(c) all interest income earned on proceeds of water development bonds; and

(d) revenue or money otherwise required to be paid into the water development state special revenue account pursuant to 85-1-604, as determined by the board of examiners in connection with the issuance of bonds pursuant to 85-1-617.

History: En. Sec. 4, Ch. 505, L. 1981; amd. Sec. 35, Ch. 298, L. 1983; amd. Sec. 1, Ch. 6, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: Inserted (2)(b) through (2)(d).

1983 Amendment: In (1), substituted "debt service fund within the debt service fund type" for "sinking account within the sinking fund"; and in (2), substituted "debt service fund" for "sinking account".

85-1-604. Water development state special revenue account created — revenues allocated — limitations on appropriations from account. (1) There is created a water development state special revenue account within the state special revenue fund established in 17-2-102.

(2) Except to the extent that they are required to be credited to the water development debt service fund pursuant to 85-1-603, there shall be paid into the water development state special revenue account:

(a) all revenues of the works and other money as provided in 85-1-332;

(b) 30% of the interest income of the resource indemnity trust fund as provided in and subject to the conditions of 15-38-202;

(c) the excess of the coal severance tax proceeds allocated by 85-1-603 to the water development debt service fund above debt service requirements as provided in and subject to the conditions of 85-1-619; and

(d) any fees or charges collected by the department pursuant to 85-1-616 for the servicing of loans, including arrangements for obtaining security interests.

(3) Appropriations may be made from the water development state special revenue account for the following purposes and subject to the following conditions:

(a) An amount less than or equal to that paid into the account under 85-1-332 and only that amount may be appropriated for the operation and maintenance of state-owned projects and works. If the amount of money available for appropriation under this subsection (3)(a) is greater than that necessary for operation and maintenance expenses, the excess may be appropriated as provided in subsection (3)(b).

(b) An amount less than or equal to that paid into the account from the resource indemnity trust account plus any excess from subsection (3)(a) and only that amount may be appropriated from the account for:

(i) the rehabilitation of state-owned projects and works, including the rehabilitation of spillways of state-owned dams;

(ii) the formulation of downstream emergency warning and evacuation plans for state-owned dams;

(iii) the development of the hydropower potential of state-owned dams;

(iv) assistance in the implementation of the water reservations established under 85-2-316 of conservation districts;

(v) the promotion of the development of offstream and tributary storage;

(vi) the promotion of joint state-tribal, state-federal, and state-tribal-federal water development;

(vii) administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, office space, and other necessities incurred in the administration of the water development program except the administration of loans and grants; and

(viii) any other expenditures that meet the policies and objectives of the state water development program.

(c) An amount less than or equal to that paid into the account from the sources provided for in (c) and (d) of subsection (2) and only that amount may be appropriated from the account for loans and grants for water development projects and activities; for administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, and office space; for the servicing of loans, including arrangements for obtaining security interests; and for other necessities incurred in administering the loans and grants.

History: En. Sec. 5, Ch. 505, L. 1981; amd. Sec. 2, Ch. 149, L. 1983; amd. Sec. 36, Ch. 298, L. 1983; amd. Sec. 10, Ch. 512, L. 1985; amd. Sec. 2, Ch. 6, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: In (2) at beginning inserted exception clause; deleted former (2)(d) that read: "any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under 85-1-617"; and deleted former (2)(f) that read: "all interest income earned on proceeds of water development bonds".

1985 Amendment: Inserted (2)(f) (deleted 1986).

1983 Amendments: Chapter 149 inserted (2)(d) (deleted 1986) and (2)(e) (now (2)(d)); in (3)(c), near beginning substituted "sources provided for in (c) through (e) [now (c) and (d)] of subsection (2)" for "water development sinking account" and near end inserted "for the servicing of loans, including arrangements for obtaining security interests".

Chapter 298, in (1), (2), and (3), substituted "state special revenue account" for "earmarked account"; in (1), substituted "state special revenue fund" for "earmarked revenue fund"; in (2)(b), substituted "trust fund" for "trust account"; and in (2)(c), substituted "water development debt service fund" for "water development sinking account".

85-1-617. Issuing bonds. (1) When authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell water development bonds of the state in the amount and manner it considers necessary and proper to finance the water development loan program. The full faith and credit and taxing powers of the state are pledged for the prompt and full payment of all bonds so issued and interest and redemption premiums payable thereon according to their terms.

(2) Each series of water development bonds may be issued by the board of examiners, upon request of the board of natural resources and conservation, at public or private sale, in such denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with such provisions for conversion or

exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at such rate or rates, maturing at such rate or rates, maturing at such time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at such earlier times and prices and upon such notice, with such provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the office of such banking institution or institutions within or outside the state, as the board of examiners shall determine subject to the limitations contained in this section and 17-5-731.

(3) In the issuance of each series of water development bonds, the interest rates and the maturities and any mandatory redemption provisions thereof shall be established in such manner that the funds then specifically pledged and appropriated by law to the water development debt service fund will in the judgment of the board of examiners be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of such bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.

(4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and notes and shall do whatever is lawful and necessary for their issuance and payment. Such bonds, notes, and any interest coupons appurtenant thereto must be signed by the members of the board of examiners, and the bonds and notes must be issued under the great seal of the state of Montana. The bonds, notes, and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds and notes issued and sold.

(5) There is created a water development account within the state special revenue fund established in 17-2-102.

(6) All proceeds of bonds or notes issued under this section, other than refunding bonds, must be deposited in the water development account established in subsection (5), except that any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under this section must be deposited in the water development debt service fund pursuant to 85-1-603. All proceeds of refunding bonds must be deposited in the water development debt service fund and applied to the payment and redemption of outstanding bonds issued under this section as directed by the board, whether at maturity or on any earlier date on which they may be prepaid according to their terms.

(7) All actions taken by the board of examiners under this section or 85-1-619 must be authorized by a vote of a majority of the members of the board of examiners.

History: En. Sec. 18, Ch. 505, L. 1981; amd. Sec. 6, Ch. 149, L. 1983; amd. Secs. 42, 55, Ch. 298, L. 1983; amd. Sec. 13, Ch. 512, L. 1985; amd. Sec. 3, Ch. 6, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: In (6) at end of first sentence substituted "debt service fund pursuant to 85-1-603" for "state special revenue account pursuant to 85-1-604".

1985 Amendment: At end of (2) inserted reference to 17-5-731; in (4) inserted reference to

notes after each occurrence of "bonds"; near beginning of (6) inserted "or notes" after "proceeds of bonds".

1983 Amendments — Composite: House Bill 533 (Ch. 298, L. 1983) was entitled in part: "AN ACT TO GENERALLY REVISE LANGUAGE IN CODE SECTIONS DEALING WITH THE ISSUANCE OF BONDS IN ORDER THAT REFERENCES TO THE TREASURY FUND STRUCTURE CONFORM TO CHAPTER 28, LAWS OF 1981." Section 42 of Ch. 298, at end of first sentence of 85-1-617(6) after "deposited in the", substituted "water development debt service fund" for "water development sinking account". Chapter 149, in the same subsection of 85-1-617, substituted "water development earmarked account pursuant to 85-1-604" for "water development sinking account and must be applied to the payment, redemption premiums, and interest on the particular bond issue from whose proceeds the loan was made". The Code Commissioner determined that the change made by Ch. 149 took precedence over that made by Ch. 298 because Ch. 149 made a substantive change whereas Ch. 298 substituted one term for its equivalent in the former treasury fund structure. Under the authority of sec. 55 of Ch. 298, the Code Commissioner then changed "water development earmarked account" to "water development state special revenue account" as that account was renamed by sec. 36 of Ch. 298.

Further changes made by Ch. 298 are as follows: in (3) and (6), substituted "water development debt service fund" for "water development sinking account"; in (5), substituted "water development account within the state special revenue fund" for "water development clearance account within the bond proceeds and insurance clearance fund"; and in (6), substituted "water development account" for "water development clearance account".

TITLE 90

PLANNING, RESEARCH, AND DEVELOPMENT

CHAPTER 5

SECONDARY INDUSTRY AND COMMERCIAL DEVELOPMENT

Part 1

Industrial Development Projects

90-5-101. Definition of terms. As used in this part, unless the context otherwise requires, the following definitions apply:

(1) "Agricultural enterprises" include but are not limited to producing, warehousing, storing, fattening, treating, handling, distributing, or selling farm products or livestock.

(2) "Bonds" means bonds, refunding bonds, notes, or other obligations issued by a municipality or county under the authority of this part, including without limitation short-term bonds or notes issued in anticipation of the issuance of long-term bonds or notes.

(3) "Governing body" means the board or body in which the general legislative powers of the municipality or county are vested.

(4) "Higher education facilities" means any real or personal properties required or useful for the operation of an institution of higher education.

(5) "Institution of higher education" means any private nonprofit corporation or institution within the state of Montana:

(a) authorized to provide or operate educational facilities; and

(b) providing a program of education beyond the high school level.

(6) "Mortgage" means a mortgage or deed of trust or other security device.

(7) "Municipality" means any incorporated city or town in the state.

(8) "Project" means any land; any building or other improvement; and any other real or personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use for commercial, manufacturing, agricultural, or industrial enterprises; recreation or tourist facilities; local, state, and federal governmental facilities; multifamily housing, hospitals, long-term care facilities, or medical facilities; higher education facilities; small-scale hydroelectric production facilities with a capacity of 50 megawatts or less; and any combination of these projects.

History: En. Sec. 1, Ch. 51, L. 1965; amd. Sec. 1, Ch. 50, L. 1969; amd. Sec. 1, Ch. 386, L. 1971; amd. Sec. 1, Ch. 234, L. 1975; amd. Sec. 1, Ch. 374, L. 1975; R.C.M. 1947, 11-4101; amd. Sec. 1, Ch. 656, L. 1979; amd. Sec. 1, Ch. 318, L. 1981; amd. Sec. 1, Ch. 376, L. 1981; amd. Sec. 1, Ch. 4, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: Inserted (4) and (5); and near end of (8) after "medical facilities" inserted "higher education facilities".

1981 Amendments: Chapter 318 inserted "small-scale hydroelectric production facilities with a capacity of 50 megawatts or less" near the end of (6) (now (8)).

Chapter 376 inserted subsection (2).

90-5-108. Use of proceeds of bond sales. (1) The proceeds from the sale of any bonds issued under authority of this part shall be applied only for the purpose for which the bonds were issued or to discharge any existing indebtedness secured by a lien against a hospital or long-term care facility or higher education facility leased or owned by a nonprofit corporation. However, if the project is not a hospital or long-term care facility or higher education facility leased or owned by a nonprofit corporation, the proceeds from the sale of bonds may not be used to discharge indebtedness without an improvement to the project.

(2) Any accrued interest and premium received in any such sale shall be applied to the payment of the principal of or the interest on the bonds sold. If for any reason any portion of such proceeds shall not be needed for the purpose for which the bonds were issued, then such unneeded portion of said proceeds shall be applied to the payment of the principal of or the interest on said bonds.

History: En. Sec. 7, Ch. 51, L. 1965; amd. Sec. 2, Ch. 234, L. 1975; R.C.M. 1947, 11-4107(part); amd. Sec. 7, Ch. 656, L. 1979; amd. Sec. 2, Ch. 4, Sp. L. March 1986.

Compiler's Comments

1986 Amendment: In (1) in two places after "long-term care facility" inserted "or higher education facility".

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GENERAL INDEX

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